

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT, E.D.N.Y.

★ DEC 27 2007 ★

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DR. GERALD FINKEL, as Chairman of the Joint
Industry Board of the Electrical Industry,

ORDER BROOKLYN OFFICE

Plaintiff,

07-CV-2030 (NGG)(RER)

-against-

AMTEX ELECTRICAL CORP.,

Defendant.
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GARAUFIS, United States District Judge.

On September 26, 2007, this court granted a motion for default judgment brought by Plaintiff Dr. Gerald Finkel, as Chairman of the Joint Industry Board of the Electrical Industry ("Joint Board") against Defendant Amtex Electrical Corp., and subsequently referred the Joint Board's motion for damages, costs and disbursements to Magistrate Judge Ramon E. Reyes. On November 29, 2007, Magistrate Judge Reyes issued a Report and Recommendation ("R&R") recommending that judgment be entered against Amtex in the amount of \$44,230.28, including \$30,365.69 in unpaid contributions, \$4,271.87 in interest, \$5,567.82 in liquidated damages, \$3,575.00 in attorneys' fees and \$449.90 in costs. The Joint Board also moved for interest on late-paid 401(k) Plan contributions made between June 2002 and November 2005 and submitted a spreadsheet in support of that motion which calculated the amount owed based on daily-compounded interest. (Ilona M. Turner Decl. Ex. I.) Noting 26 U.S.C. 6621's provision that interest cannot be "compounded daily," Magistrate Judge Reyes recommended denial of the Joint

Board's motion for interest "without prejudice to a future evidentiary showing that includes a detailed calculation of simple interest." (R&R at 8.) On December 13, 2007, the Joint Board filed an objection to Magistrate Judge Reyes's recommendation, solely claiming that it should be granted interest on the late-paid contributions. The Joint Board included in its motion a spreadsheet detailing each of the interest payments owed and calculating the interest using simple interest instead of compound interest. According to that calculation, the Joint Board is entitled to \$1,104.52 in interest payments. The Joint Board has provided sufficient evidentiary support to this court, and therefore its claim for \$1,104.52 in late-paid 401(k) Plan contributions made between June 2002 and November 2005 is granted.

With respect to the remaining claims to which the Board did not object, the R&R is comprehensive and well-reasoned. The court finds no clear error in the R&R and therefore adopts the remainder of the R&R for the reasons stated therein.

The Joint Board's motion for damages, costs and disbursements in the amount of \$45,334.80 is hereby GRANTED as detailed above.

SO ORDERED.

Dated: December 21, 2007
Brooklyn, N.Y.

/signed/

NICHOLAS G. GARAUFI
United States District Judge